

**ENTERED**

March 15, 2019

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION**

JULIUS TURNER,

Plaintiff,

VS.

SUSANNA CARBETT, *et al*,

Defendants.

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CIVIL NO. 2:17-CV-385

**ORDER**

The Court is in receipt of Defendants' Sealed Motion for Summary Judgment, Dkt. No. 38; Defendants' Motion to Strike, Dkt. No. 48; the Magistrate Judge's Memorandum and Recommendation ("M&R") to dismiss case, Dkt. No. 50; and Plaintiff's Objections to the M&R, Dkt. No. 54.

After independently reviewing the filings, the record, and applicable law, the Court **ADOPTS** the M&R, Dkt. No. 50, in substance.<sup>1</sup> Accordingly, the Court **GRANTS** Defendants' Motion to Strike, Dkt. No. 48. Further, the Court **DENIES IN PART** Defendants' Motion for Summary Judgment, Dkt. No. 38, on the issue of exhaustion, and **GRANTS IN PART** Defendants' Motion for Summary Judgment, Dkt. No. 38, as to the merits of Plaintiff's claims.

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<sup>1</sup> The Court declines to adopt the statement in Section 6(B)(3) of the M&R that states, "the uncontroverted summary judgment evidence demonstrates that Plaintiff has failed to state an Eighth Amendment claim of deliberate indifference against Defendants." Dkt. No. 50 at 38. The Court instead concludes that Plaintiff has submitted no summary judgment evidence which raises a genuine issue of fact regarding the violation of Plaintiff's constitutional rights.

This case is therefore **DISMISSED WITH PREJUDICE**. Final judgment will be entered separately.

SIGNED this 14th day of March, 2019.

A handwritten signature in black ink, appearing to read 'Hilda Tagle', written over a horizontal line.

Hilda Tagle  
Senior United States District Judge